S.B. Civil Writ Petition No. 2134/2003
(Surendra Singh V/s State of Raj.)

Date of Order : 2/12/2004

HON'BLE MR. PRAKASH TATIA,J.

Mr.G.R. Punia, for the petitioner/s
Mr.L.R. Upadhyaya, Dy. Govt. Advocate.

Heard learned counsel for the parties.

It appears from the facts of the case that the petitioner was allotted a land but the petitioner was not satisfied because there was no irrigation facility for the land which was allotted to the petitioner, therefore, the petitioner submitted an application for getting another land in exchange but the respondent treated the petitioner as defaulter and issued him a show cause notice on 25.7.2000 which was challenged by the petitioner by filing S.B. Civil Writ Petition No. 3150/2000.

This court in above writ petition, observed that there are ample evidence on record to show that the land was supposed to be command land as the construction was going on that land but the contractors could not complete the work till the date of passing of order by the Court, therefore, this Court directed the Colonization Commissioner to consider the prayer of the petitioner for exchange of land and the concerned authority was requested to pass an appropriate order strictly in accordance with law and in case the command land is not available, then to pass the order of refund etc. strictly in

accordance with law.

It appears that after the order of this Court in above S.B. Civil Writ Petition No. 3150/2000 dated 15.3.2001, the authorities considered the case of the petitioner for allotment of land. The petitioner gave his choice for a particular piece of land and that land was allotted to the petitioner vide Annex.-7.

According to the learned counsel for the petitioner, the respondent again allotted uncommand land to the petitioner and therefore, the petitioner do not want to take the land and prays that the amount deposited by him may be returned to the petitioner alongwith interest.

Learned counsel for the petitioner relied upon the order of this Court passed in S.B. Civil Writ Petition No. 2213/2003 Sumer Singh V/s State of Rajasthan and Ors. dated 29.10.2003 wherein this Court directed the respondent to refund the money deposited by the petitioner in that case. According to the learned counsel for the petitioner, the present matter is identical to the matter which was decided by this Court in S.B.C.W. No.2213/2003.

It appears from the facts of S.B.C.W. No. 2213/2003 that the land was not allotted to the petitioner in the said case and therefore, the petitioner of that case sought a recovery of the

amount paid by him. Here in this case, the petitioner himself obtained the order from this Court in S.B.C.W. No. 3150/2000 dated 15.3.2001 and he himself requested for allotment of particular piece of land which was allotted to the petitioner vide Annex.-7. The respondent submitted the reply to the writ petition and specifically pleaded that the irrigation facility is also available in the land which was allotted to the petitioner and the land has been recorded in the name of the petitioner vide mutation No. 11/02 even before filing of the present writ petition by the petitioner.

In view of the above, the facts of the case of Sumer Singh (supra) were entirely different and here in this writ petition, the petitioner himself sought allotment of the land of irrigation facility. No case is made out by the petitioner for the refund of the amount which he deposited for the land and the respondents have allotted the land to the petitioner.

No case is made out for and interference and hence, the writ petition of the petitioner is dismissed.

(PRAKASH TATIA)J.

RM/